

THE
King of SPAIN's
REASONS

For not paying the 95,000*l.* stipulated in the
Convention signed at the PARDO, 14 Jan. 1739,

EXAMINED.

To which is added,

Philip v.

The CONVENTION
AND THE
SEPARATE ARTICLES.

Translated from the *French* lately printed at the *Hague*.

L O N D O N:

7.

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EXAMINATION
OF A
PIECE
ENTITLED,

*The King of Spain's Reasons for not
paying the 95,000 l.*

THE Court of *Spain*, no doubt, will, in due Time, publish to the World, the true and solid Reasons it had for refusing the Payment of the 95000 *l.* to the King of *Great Britain*, according to the Terms expressly stipulated in the 3d Article of the Convention, and the 1st separate Article, signed at the *Pardo* the 14th of *January*, 1739.

In the mean time it has, it seems, been thought proper to disperse among the Regents of this Country, a very extraordinary Piece, entituled, *The King of Spain's Reasons*, &c. which consists of Facts so notoriously false, and of such trifling and absurd Reasonings; that, far from believing this Piece is published, as is pretended, at the Instance, or under the Direction of the *Spanish* Ambassador to the States General, I am persuaded, it proceeds from the Invention and low Artifice of some malicious Pen that means to expose the Court of *Spain*, and throw an Aspersions upon the Minister who so worthily represents that Court here. This will clearly appear, if the pitiful Reasons advanced in this Piece

to support the Contraventions charged on *Great Britain* be set in their true *Light*.

The first pretended Contravention is founded on the following Words, “ That the two Kings having Nothing so much at Heart as to preserve
“ and corroborate the good Correspondence which
“ has so happily subsisted, have agreed to labour
“ incessantly by their Ministers, with all imaginable
“ Application and Diligence to attain so desirable
“ an End.”

These Words are quoted in such a Manner, as if they were joyned close together in the Beginning of the Convention, and made Part of one and the same Sentence ; whereas in Truth they are taken from different Places of it. One half of these Words, viz. *Having Nothing so much at Heart as to preserve and corroborate the good Correspondence which has so happily subsisted*, are in the Preamble ; and are there detached from the Words that follow in this Paper of *Reasons*, which are, *have agreed to labour incessantly by their Ministers, with all imaginable Application and Diligence, to attain so desirable an End*. For these Words are in another Place, in the first Article of the Convention ; and are not there used to make that Sense, for which they are alledged in this Piece.

’Tis said in the Preamble, “ That the Differences between the Crowns of *Spain* and *Great Britain*, on Account of the Visiting, Searching, and
“ Taking of Vessels, the Seizing of Effects, the Regulating of Limits, &c. are so serious, and of
“ such a Nature, that if Care be not taken to put
“ an entire Stop to them for the present, and to
“ prevent them for the future, they might occasion
“ an open Rupture between the said Crowns.”

Then immediately follows, *For this Reason his Majesty the King of Spain, and his Majesty the King of Great Britain, having Nothing so much at Heart as to*

pre-

preserve and corroborate the good Correspondence which has so happily subsisted : And then it follows, have thought proper to grant their Full Powers, &c. and not the Words cited in this Paper of Reasons, which are, have agreed to labour by their Ministers with all imaginable Application and Diligence to attain so desirable an End : These Words are in the first Article of the Convention, which says,

“ Whereas the ancient Friendship, so desirable
 “ and so necessary for the reciprocal Interest of both
 “ Nations, and particularly with Regard to their
 “ Commerce, cannot be established upon a lasting
 “ Foundation, unless Care be taken not only to ad-
 “ just and regulate the Pretensions for reciprocal
 “ Reparation of the Damages already sustained, but
 “ above all to find out Means to prevent the like
 “ Causes of Complaint for the future, and to re-
 “ move absolutely, and for ever, every Thing which
 “ might give Occasion thereto ; It is agreed to la-
 “ bour immediately, with all imaginable Applica-
 “ tion and Diligence, to attain so desirable an End.”

Then follows, “ And for that Purpose, there shall
 “ be named on the Part of their *Catholick* and *Bri-
 “ tannick* Majesties respectively, immediately after
 “ the signing of the present Convention, two Mini-
 “ sters Plenipotentiaries.” It appears clearly by all
 this, that what this great Reasoner would have pass
 for Parts of one and the same Sentence, and in one
 and the same Place of the Convention, is partly ta-
 ken from the Preamble, and partly from the first
 Article of it, and applied to different Purposes.

’Tis indeed scarce worth while to say so much up-
 on so small a Matter, were it not to shew the low
 Cunning and Chicanry of this Writer, and to clear
 the *Spanish* Ambassador from the Imputation of ha-
 ving had any Knowledge of it, or any the least Hand
 in it ; who has too much Honour and Integrity to
 gather Pieces of Sentences taken from different Parts
 of

of the Convention, and tack them together, as if they made but one Paragraph, and so impose on the World in making it believe it is but one Sentence; and that for no other End, but to draw from it this lame and pitiful Conclusion, “ That in Virtue of this “ mutual Disposition, the *British* Court immediately “ recalled their Squadron from the *Mediterranean*, “ and *Spain* disarmed their Marine.”

For I am persuaded his Excellency is too ingenuous and sincere, not to have told this Reasoner, if he had consulted him upon it, that there is not one Word in the Convention, which mentions, or which can imply the Recall of the *British* Fleet from the *Mediterranean*, or *Spain*’s disarming of their Marine; and that during the whole Course of the Negotiation that Year, while the *British* Squadron continued in those Seas, Nothing of this Nature was ever so much as mentioned, directly or indirectly; and by Consequence, the Continuance of the Fleet in those Seas could not seriously be alledged as a Contravention of the Convention. But what immediately follows in this Piece, viz. “ The Court of *Spain* “ suspected, that the Clamours of the People, and “ of the Antiministerial Party against the Conven- “ tion, might have obliged the *British* Court to coun- “ termand the Orders given for the Recall of the “ Fleet ;” this is the strongest Proof that can be, that this Piece was not published with the Privy or at the Instance of any Friend of *Spain*. For if *Spain* was convinced of the good Disposition of the *British* Ministry in Favour of the Convention, it would have made them give that Attention to the Sincerity of their Intentions, as would have hindred them from doing what their Enemies desired and wished they would do, and they would not have objected to the Continuance of the Fleet in the *Mediterranean*, and made it a Pretence for not paying the 95000 *l*.

Our Reasoner goes on, and says, “ That the “ Keeping of a Squadron not only at *Port Mahon*, “ but

“ but even at *Gibraltar*, in the Midst of the *Spanish*
 “ Coasts, could be with no other Design than to
 “ disturb and interrupt their Commerce, which can
 “ be look’d on no otherwise than as a continual
 “ Hostility.” But was not this Squadron in one or
 other of these Ports for several Months, while the
 Convention was treating ? Did it give the least
 Hindrance, or Interruption to Trade ? Or if it had
 been look’d on as a continual Hostility, would not
Spain have mentioned it, or stipulated its Return in
 some Article of the Convention ?

But I would ask, To whom do *Gibraltar* and *Port*
Mabon belong ? Is it not to the Crown of *Great*
Britain ? Were they not yielded to it by the Treaty
 of *Utrecht*, by the present King of *Spain* ? Is there
 any Stipulation in that Treaty, that limits the Num-
 ber of Ships which *Great Britain* shall keep in either
 of those Ports, which they are in actual Possession
 of ? If this be the Case, and there be no Stipulation
 in the Convention for the Recall of the *British* Fleet
 from those Ports ; to pretend that the Continuance
 of the Fleet in those Places, is a Reason for not pay-
 ing the 95000 *l.* is indeed an evident Proof, that
 the Convention has been contravened, by whom
 need not be said.

The second pretended Contravention on the Part
 of *Great Britain* arises from the 2d Article.

The Words of the 2d Article that relate to this
 Point are (not exactly as they are cited by this Rea-
 soner, but) these following : “ During the Time
 “ that the Discussion of that Affair shall last, Things
 “ shall remain in the aforesaid Territories of *Flo-*
 “ *rida* and of *Carolina* in the Situation they are in
 “ at present, without increasing the Fortifications
 “ there, or taking any new Posts ; And for this
 “ Purpose, his *Britannick* Majesty and his *Catholic*
 “ Majesty shall cause the necessary Orders to be
 “ dispatch’d immediately after the Signing of this
 “ Convention.” This is the Article ; the Contra-
 vention

vention charged is this ; “ The King of *Spain* on
 “ his Part perform’d this Engagement fully ; *Great*
 “ *Britain* delay’d the Execution of it four Months ;
 “ and even at present there is no positive Proof,
 “ that this Order has been given : There is only a
 “ Letter of the Duke of *Newcastle*’s, that this Or-
 “ der was not dispatch’d the 27th of *March*.”

The State of the Fact, as I have been inform’d
 by a Friend of *Spain*, is this :

Mr. *Keene*, the *British* Minister at the *Spanish* Court,
 pass’d an Office the 1st Feb. 1738-9, to M. de la
Quadra, desiring, that the King of *Spain* would im-
 mediately dispatch his Orders for keeping Things
 in *statu quo* at *Florida*.

The 1st Feb. M. De la *Quadra* in Answer told
 Mr. *Keene*, that the necessary Measures were taken
 for dispatching, as soon as the Ratifications of the
 Convention were received, the Orders conformably
 to what had been stipulated in the said Convention,
 with respect to the Condition in which the Terri-
 tories of *Florida* and *Carolina* were to remain ; and
 that these Orders should be deferr’d no longer than
 till the Advice-Boat, that was to carry them, was
 ready to sail.

The 1st Mar. M. *Geraldino* acquainted the Duke
 of *Newcastle*, that the King of *Spain*’s Orders were
 sent to the Governor of *Florida*, conformably to the
 2d Article of the Convention ; desiring, that in Case
 the like Orders had not been already sent on the
 Part of his *Britannick* Majesty to the Governor of
Carolina, they should be sent out of Hand.

The 1st Mar. the Duke of *Newcastle* signified to
 M. *Geraldino*, that the King’s Orders should be
 sent without Delay, and they were accordingly sent
 two Days after, the 1st Mar. And it is as well known
 in *Spain*, that these Orders were sent from *England* ;
 as it is known in *England*, that Orders were sent
 from *Spain*. The Orders themselves were not com-
 municated by either Party to the other, but the De-
 claration

claration of their being sent, was equally made by both.

This State of the Facts plainly shews, how ill this pretended Contravention is founded; and I must again send this Reasoner to the *Spanish* Ambassador, who assuredly would have told him, either from his own Knowledge, or from what he had learn'd of this Matter from his Friend *Geraldino* in *England*, that such gross Misrepresentations of plain Facts, instead of doing Service to the Cause of *Spain*, must needs be a great Prejudice to it.

But says this Reasoner; "What makes this Contravention still more remarkable (and his Reasoning so much the more ridiculous) "is, that at the "same Time three Men of War were sent upon "frivolous Pretences to reinforce the Squadron at "*Jamaica*; and several Ships were sent thither with "Troops and war-like Stores."

Is there in the Convention one Word, what Number of Ships the *English* shall keep at *Jamaica*, or what Quantity of Troops or war-like Stores they shall send to their Colonies in the *West Indies*, and when they shall be sent?

It would be a strange Way of Reasoning, to say, that because *Jamaica* once belonged to the Crown of *Spain*, as well as *Gibraltar* and *Port Mabon*, that Crown for that Reason retains such a Dominion over those Places, as to have a Right to prescribe what Forces, war-like Stores or Fleets the *English* shall have there; and that consequently the sending their Ships with Troops and war-like Stores is a manifest Contravention of the Convention, and that a very remarkable one, tho' there be not the least Word in it of this Matter. But to strengthen the Charge of this Contravention, he has Recourse to what happen'd in 1735 and 1724; which Facts he reports falsely, and altho' they were true, they are nothing to his Purpose.

The 3d Contravention on the Part of *Great Britain*, and by Consequence one of the Reasons for *Spain's* refusing to pay the 95,000 *l.* is founded upon a Declaration of the King of *Spain* with Regard to the 68,000 *l.* due to his *Catholick* Majesty from the *South Sea* Company ; and this Point is so labour'd by a Repetition of certain Phrases, and by a Choice of particular Expressions printed in *Italicks*, that one would imagine at first Sight, that our Reasoner speaks here with some Foundation on his Side. And as many, who could not forbear laughing at the other pretended Contraventions, may, for want of having before them the Convention and Declaration, be here deceived, and figure to themselves something real and solid as to this Point, it may not be amiss to state and compare the Articles of the Convention which relate to the 95,000 *l.* with this Declaration concerning the 68,000 *l.* which will set this Affair in its true Light, and shew, that there is as little Foundation in this pretended Contravention, as in the foregoing.

The 3d Article says,

“ After having duly considered the Demands and
 “ Pretensions of the two Crowns, and of their re-
 “ spective Subjects, for Reparation of the Damages
 “ sustained on each Side, and all Circumstances
 “ which relate to this important Affair ; It is agreed,
 “ that his *Catholick* Majesty shall cause to be paid
 “ to his *Britannick* Majesty the Sum of Ninety five
 “ thousand Pounds Sterling for a Balance, which
 “ has been admitted as due to the Crown and the
 “ Subjects of *Great Britain*, after Deduction made
 “ of the Demands of the Crown and Subjects of
 “ *Spain* ; to the End that the abovementioned Sum,
 “ together with the Amount of what has been ac-
 “ knowledged on the Part of *Great Britain* to be
 “ due to *Spain* on her Demands, may be employ'd
 “ by his *Britannick* Majesty for the Satisfaction, Dis-
 “ charge,

“ charge, and Payment of the Demands of his
 “ Subjects upon the Crown of *Spain*.”

The first separate Article.

“ And whereas it has been agreed by the 3d
 “ Article of the Convention, signed this Day, that
 “ the Sum of Ninety five thousand Pounds *Sterling*
 “ is due, on the Part of *Spain*, as a Balance to the
 “ Crown and Subjects of *Great Britain*, after De-
 “ duction made of the Demands of the Crown and
 “ Subjects of *Spain*; his *Catholick* Majesty shall
 “ cause to be paid at *London*, within the Term of
 “ four Months, to be reckon’d from the Day of
 “ the Exchange of the Ratifications, or sooner if
 “ it be possible, in Money, the abovementioned
 “ Sum of Ninety five thousand Pounds *Sterling*, to
 “ such Persons as shall be authorized, on the Part
 “ of his *Britannick* Majesty, to receive it.

Such is the Stipulation in the Convention for the
 Payment of the 95,000 *l*. The Time, the Place,
 and the Sum are expressly named without any Con-
 dition and Restriction whatever, and without any
 Mention of the 68,000 *l*. demanded by the King of
Spain of the *South Sea* Company.

But before the Signing of the Convention, the
 Marquis *de Villarias* sent a Paper to Mr. *Keene*, in
 which he declared, “ that his *Catholick* Majesty re-
 “ serves to himself the entire Right to suspend the
 “ *Affiento* of *Negroes*, and of dispatching Orders for
 “ the Execution of that Suspension, in Case the Com-
 “ pany do not submit to pay, within a short Term,
 “ the Sixty Eight Thousand Pounds *Sterling*, which
 “ it has acknowledged to be due; --- and that un-
 “ der the Validity and Force of this present Protest,
 “ and not otherwise, the signing of the abovesaid Con-
 “ vention may be proceeded to. For it is on this
 “ firm Supposition, (and not, as the Reasoner says, in
 “ Consequence of this special Condition) “ which shall
 “ not be eluded under any Pretext whatsoever, that
 “ his *Catholick* Majesty is determined thereto.

What now is the literal Sense of this Declaration, which is signed only by a *Spanish* Secretary of State, and makes no Part at all of the Convention by any Act whatsoever? It is in few Words, that the King of *Spain* would not agree to sign the Convention, *without previously protesting that he reserved to himself the entire Right of suspending the Assiento Contract*, in Case the *South Sea* Company would not pay him, in a short Time to be limited, the 68,000 *l.*

What has this to do with the Payment of the 95,000 *l.* which the King of *Spain* was by the Convention to pay to the King of *Great Britain*? What is the Protest, under the Validity and Force of which the King of *Spain* consented to sign the Convention, and not otherwise: What is the firm Supposition, that was not to be eluded upon any Motive or Pretence whatever; what is it else but that in Case the *South Sea* Company would not pay his *Catholick* Majesty the 68,000 *l.* *he reserved to himself the Right to suspend the Assiento Treaty?*

The *South Sea* Company refuse, and they think with good Reason, to pay this Sum; to what then can the King of *Spain* pretend in Virtue of this Declaration? Most certainly to nothing more, if the Thing be taken in all its Force, and in its full Extent, but to dispatch his Orders for suspending the *Assiento*. But according to our Reasoner, the King of *Spain* having reserved to himself, by a Declaration sign'd only by his Secretary of State, the Right of suspending the *Assiento*, in Case the Company would not pay the 68000 *l.* and the Company having refused to pay this Sum, *Therefore* the King of *Spain* may justly refuse the Payment of the 95000 *l.* to the King of *Great Britain*, so solemnly stipulated in the Convention, signed and ratified by the two Crowns; altho' there be not any Mention of the 68000 *l.* in the Convention, nor of the 95000 *l.* in the Declaration. This is excellent Logick, and what I am certain, could never

never come from one, who has with Honour and Reputation sat in a Court of Justice.

But says this Reasoner, " When the Conferences " were open'd, so little Regard was had to this " Declaration, that the *English* Plenipotentiaries " began, by presenting a Memorial, to demand " the Effects taken by way of Reprizals in the " *Indies* from the *Assiento* Company in 1718, and " 1727, and protesting, that till this Account was " settled, the 68000 *l.* which was a stated Account, " should not be paid to his Catholick Majesty".

This is what is called here a third Contravention ; and what produces a fourth, which is this, " By " the 2d separate Article this Affair is to be de- " bated not in the Conferences, but in a Nego- " tiation apart. But the *English* Plenipotentiaries " insisted, it should be declared, that the King of " *Spain* could not suspend the *Assiento* Contract, as " being a national Treaty ; altho' the contrary was " expressly declared in the Declaration, on the Va- " lidity of which depends the Validity of the Con- " vention itself. That the *English* Ministry, in- " stead of obliging the Company to pay the King " of *Spain* the 68000 *l.* seeks to elude the Pay- " ment by Means contrary to the Convention and " Declaration".

'Tis with these two Contraventions as with Twins, that come before their Time, and expire in their Birth. For

1. The Plenipotentiaries named in Virtue of the Convention, viz. Mr. Keene and Mr. Castres, never made any Representation touching the 68000 *l.* nor open'd the Conferences with any Thing relating to it.

2. This Reasoner is equally mistaken in his Explication of the 2d separate Article, since the Distinction which he makes in saying this Matter ought not to be debated in the Conferences, but in a Negotiation apart, is not to be found there.

So that his Premises being both false, his Conclusion falls of itself, as will appear by stating the Facts that relate to this Matter.

The *South Sea Company* owes to the King of *Spain* 68000 *l.* and at the same Time Demands treble that Sum as due to them for the Reprizals made in the *West Indies*: His Catholick Majesty offers the Company Cédulas for the Payment of that Sum; the Directors refuse to accept them, upon the Experience they have had, that the like Cédulas have never had any Effect.

Mr. Keene, in Quality of Agent to the Company, and Minister at the Court of *Spain*, represented at the same Time in a Memorial (and not in the Conferences, in Quality of Plenipotentiary jointly with Mr. Castres in Virtue of the Convention) in behalf of the Directors of the *South Sea Company*, that they could not justify themselves to their Proprietors, if they should pay the 68000 *l.* demanded by the King of *Spain*, before they had received a better Security for the Payment of the Reprizals, which amounted to three Times that Sum, this being a Debt they had a Claim to from the Years 1718, and 1727, and of which they had not yet received a single Penny, tho' his Catholick Majesty had often promised in the most solemn Manner that the Payment should be made, long before his Demand of the 68000 *l.* The King of *Spain* offended at this, before he Consents to the Signing of the Convention, makes a Protest, and declares, that if the 68000 *l.* were not immediately paid, he reserved to himself the Right of suspending the *Affiento*. Mr. Keene represents anew in a decent Manner, how unreasonable it would be, if his Catholick Majesty came to such an Extremity against the Company, by an actual suspending of the *Affiento*, and thereby breaking a national Treaty.

What Relation has all this to the 95000 *l.* stipulated

pulated in a solemn Convention to be paid in Money in a certain Time, and in a certain Place ; is there one Word in the Convention that can have any Relation to the Dispute between the King of *Spain* and the Company concerning the 68000 *l.* ; where is it said that his *Britannick* Majesty should oblige the Company to pay it ? Far from it ; the *Spanish* Ambassador here knows very well, or his Friend *Geraldino* could have informed him, that the Payment of the 95000 *l.* was express'd in Terms so clear and so express, as to imply nothing that has any Thing to do with the 68000 *l.* demanded by the King of *Spain* : Thus comes out this trifling and tiresome Affair. What can the Court or Ambassadour of *Spain* have done to this Reasoner, to provoke him to make them talk in this Manner, to justify the Violation of one of the most solemn Treaties ?

The fifth Contravention is quite new, and of mighty Force truly. " By the Second Article of the Convention, the Plenipotentiaries are to decide all Matters of Dispute" : " The *English* therefore in applying directly to the King of *Spain* for the Restitution of one of their Ships taken since the Ratification," have contravened the Convention, and ought not to be paid the 95000 *l.*

A sixth Contravention is formed on a Foundation equally solid, *viz.* ' By the Convention the Plenipotentiaries were to meet at *Madrid* within six Weeks after the Ratifications, to confer there, &c. But this Reasoner pretends to know that the Instructions, (of which there is not the least Footstep in the Convention) were not sent to the *English* Plenipotentiaries under eight Weeks, and this is the sixth Contravention ; a choice one, and consequently another Reason for not paying of the 95000 *l.* Why does not he add, that the Instructions which the King of *Great Britain* gave to his Plenipo-

Plenipotentiaries to confer with those of *Spain* were not communicated to his Catholick Majesty ? This Reasoning would have been full as good, and furnished another like incontestable Argument for not paying this Sum.

But certainly there never was a greater Farce, than in making so pompous a Parade of the Confidence which 'tis said, his Catholick Majesty reposed in the King of *Great Britain* in the 4th Article of the Convention ; where 'tis said, “ If it happens, that in Consequence of the Orders that have been dispatched by the Court of *Spain* for the Restitution of some Ships and their Effects, any Part, or the Whole of them have been restored, the Sums so received shall be deducted from the 95000*l.* Sterling, which is to be paid by the Court of *Spain* according to what is above stipulated.”

And as this Sum, says our Reasoner, was to be paid in four Months, it follows, that the Catholick King left the Amount of these Ships to the Honour of his *Britannick* Majesty, without taking any Security for the Payment of it, and trusted the Value of them without fixing any Time, to the good Pleasure and Discretion of this Prince. Wonderful Confidence ! The King of *Spain* covenants to pay 95000*l.* in Satisfaction for past Injuries, which the *British* Subjects have suffered by the *Spanish* Depredations ; which Sum it is clear, by what has been said, was never intended to be paid ; but it is from this Sum when paid, that there is to be deducted such other Sums as shall have been received in Virtue of Orders sent by the *Spanish* Court for the Restitution of certain Ships ; but it is well known by long Experience, that there never has been, nor ever will be any Restitution made, in Virtue of any Orders given by *Spain* with Regard to Ships taken by the *Garde de Costas*. And yet this Reasoner supposes the Value of those Ships restored, and generously left by the King of *Spain*

to

to the Honour of the King of *Great Britain*, without taking any Security for the Payment. That is to say, The King of *Spain* has trusted the King of *Great Britain*, without City-Security, and without limiting a Time, with the Disposition of what neither this King, nor any of his Subjects have ever received : and this is what is called *a fine Example of Confidence*.

Risum teneatis amici !

The Seventh Contravention, and consequently another Reason for not paying the 95000 *l.* is, that the *English* Plenipotentiaries pretended to a free Navigation in all the *American* Seas, insisting that they had a Right to it by the Law of Nations, by Treaties, and by the 15th Article of that of 1670. This is called a manifest Infraction of the first Article of the Convention.

The Words of this Article are not correctly quoted by the Reasoner, but are as follows ; “ The
“ Plenipotentiaries shall meet at *Madrid* within the
“ Space of six Weeks, to be reckoned from the Day
“ of the Exchange of the Ratifications, there to confer, and finally regulate the respective Pretensions
“ of the two Crowns, as well with Relation to the
“ Trade and Navigation in *America* and *Europe*, and
“ to the Limits of *Florida* and of *Carolina*, as concerning other Points, which remain likewise to be
“ adjusted ; the whole according to the Treaties, &c.

The *English* claim, and always have claimed, as well as the *French* and the *Dutch*, by the Right of Nations and their Treaties with *Spain*, a free Navigation in the *American* Seas, and complain that this Liberty has been notoriously violated by the *Spaniards*.

The *British* Plenipotentiaries, in Consequence of the Convention, which says, that the respective Pretensions with Regard to Trade and Navigation, shall be regulated, demand a free Navigation in those Seas ; and this Demand is called a Contravention of the Convention, and is given as a Reason

son for not paying the 95000 *l.* stipulated in it. How can Claims and Rights which have been violated, be regulated without being produced, and demanded? And yet the *English*, for making this Demand of what they think they are justly entitled to by the Law of Nations, and by Treaties, are said to have violated this very Convention in which it is agreed that they shall make it. Is not this perfectly arbitrary and unjust; is not this a Decision absolutely like that of the *Lion*?

But 'tis Time to quit this Article of the 95000 *l.* which was not worth mentioning, but to shew, that the Reasons alledged for the not paying of it, on Account of these pretended Contraventions on the Part of *Great Britain*, are so trifling, and so absurd, that they never could come from the Court of *Spain*. Besides, the Sum itself is a Trifle in Comparison of the Injuries which the *British* Nation has suffered by the Depredations of the *Spaniards*, for above Twenty Years, without any Reparation or other Satisfaction, but that of Stipulations which never have been executed, Promises that never have been performed, and Cédulas or Orders for Restitution which never have been observed. And therefore the only Consideration of Weight and Importance is to take Care, that the Freedom of Navigation in *America* shall not be interrupted for the Future, and that their lawful Trade shall not depend on the good Pleasure, and lye at the Mercy of the *Spaniards*; which is the principal Object of the Convention, as evidently appears by the express Words of it.

The Preamble, as it has been quoted above, says, “ That the Differences on Account of the
 “ Visiting, Searching, and taking of Vessels, the
 “ Seizing of Effects, &c. in the *West Indies*, are so
 “ serious, and of such a Nature, that if Care be
 “ not taken to put an entire Stop to them for
 “ the Present, and to prevent them for the Future,
 “ they might occasion an open Rupture between
 “ the

“ the said Crowns ; for this Reason, &c.” It is here declared, that a War would be unavoidable, if Care were not taken, not only to put an End for the Present, but to prevent for the Future, the Grievances with Regard to the Visiting, Searching, and Taking Vessels in the *West Indies*.

By the first Article it is stipulated, “ That the
 “ ancient Friendship, so desirable and so necessary
 “ for the reciprocal Interest of both Nations, and
 “ particularly with regard to their Commerce, cannot be established upon a lasting Foundation,
 “ unless Care be taken, not only to adjust and
 “ regulate the Pretensions for reciprocal Reparation
 “ of the Damages already sustained, but above all
 “ to find out Means to prevent the like Causes of
 “ Complaint for the Future, and to remove absolutely, and for ever, every Thing which might
 “ give Occasion thereto”.

What are the Damages that are to be made good ? Are they not, with Regard to *England*, those which the *Spaniards* have done the *English* Vessels by their Depredations ?

What are the Causes of Complaint which are chiefly to be prevented in order to preserve the Friendship between the two Nations ; does it not appear by the Words of the Preamble which have been here cited, that it is the Visiting and Searching of Ships in the *West Indies* ? And what is to be done to remove for ever every Thing that might give Occasion for the like Causes of Complaint ? What else can be done, but not to suffer the like Visiting and Searching of Vessels for the Future, and to settle the Freedom of Navigation in *America* ? This is what *Great Britain* insists on, and what the *Dutch*, and, I doubt not, the *French* insist on likewise. 'Tis what they have a Claim to by the Right of Nations, and by the Treaties between the two Crowns : By the first, because *Great Britain* is a Sovereign Power, independent of *Spain*, and has as much Right to the Navigation,

or any other Pre-eminence in the *American Seas*, as *Spain* has ; and as *Great Britain* has not consented by any Treaty, that *Spain* should have a superior Dominion in those Seas, *Spain* can't pretend more than any other Power that has Dominions in those Parts, to interrupt the Navigation there, under Pretence of Examining and Searching, whether the Vessels have carried on an illicit Commerce ; for by that Means, even their lawful Commerce would absolutely depend on the sole Will and Decision of *Spain*, or of those who act by Commission from that Crown ; and this by Consequence would be a Violation of the Right, which every independent Sovereign has to navigate in the open and common Seas.

But this Reasoner says, “ the King of *Spain* has declared, “ that the Freedom of Navigation shall not “ be disturbed contrary to Treaties ; that *England*, in “ Contempt of the Convention, rudely demanded, “ that without any Examination (of Treaties) a “ Freedom of Navigation should be granted in all “ the *American Seas*, where it has no other Freedom of Navigation according to Treaties, but “ to go to, and return from its Colonies, conformably to what had been stipulated with the States “ General.”

Without stopping to make any Remark upon those Words, *in all the Seas*, which are often affectedly repeated, and which, I believe, are not to be found in any Memorial presented by the *English*, I will proceed to consider the great Point in Question, the Freedom of Navigation.

If this Reasoner would speak out, he must think that *Spain*, I know not by what Prerogative, has a particular Pre-eminence and Dominion in the *American Seas*, and that the *English* and *Dutch* have no other Liberty of Navigating there, than what has been granted them by *Spain* ; that is to say, to and from their Colonies ; as if *Spain* had traced out a Route, and these Nations had consented to pursue

no other in going to, and returning from their *American Colonies*; and as if the *Spanish Garde de Costas* had a Liberty to stop, and visit all *English* and *Dutch* Vessels, to examine and judge without Appeal, whether they keep their due Course, or go out of it, and to act accordingly with Respect to their Seizure and Confiscation. Whereas the *English* and *Dutch* pretend, that *Spain* has no greater Pre-eminence in the *American Seas*, than they have; and that they have the same Liberty, by the Law of Nations, to sail to and from their Colonies, that the *Spaniards* have to go to and from their Possessions, and to direct their Course, as they please, without giving Account to, or asking Leave of the *Spaniards*; and that by the Treaties there is no greater Restriction upon the *English* and *Dutch* Navigation in those Parts, than there is upon that of the *Spaniards*; as will appear by examining the Treaties.

The first Treaty with Regard to the Navigation and Commerce in the *West Indies*, is that which was made at *Munster* between *Philip IV.* of *Spain* and the States General the 30th of *January* 1648.

By the 5th Article of this Treaty it is stipulated,
 ---- “ That each, the said Lords, the King and States
 “ respectively, shall continue in Possession of, and shall
 “ enjoy such Lordships, Towns, Castles, Fortresses,
 “ Commerce, and Countries in the *East* and *West In-*
 “ *dies*, as also in *Brazil*, and upon the Coasts of *Asia*,
 “ *Africa*, and *America* respectively, as the said Lords,
 “ the King and States, are respectively possessed of.

And by the 6th Article;

“ And as to the *West Indies*, the Subjects and In-
 “ habitants of the Kingdoms, Provinces, and Lands
 “ of the said Lords, the King and States, shall
 “ respectively forbear navigating and trading in
 “ all the Ports, Places furnished with Forts, Lodg-
 “ ments, or Castles, and all others possessed by the
 “ other Party; that is to say, that the Subjects of the
 “ said

“ said Lord the King shall not navigate to or trade in
 “ those possessed by the said Lords the States, nor
 “ the Subjects of the said Lords the States in those
 “ possessed by the said Lord the King, &c.

By this it appears, that by the 5th Article, the contracting Parties are to keep and enjoy respectively their Possessions and Commerce in the *West Indies*. And

By the 6th, the Subjects of each are forbid to navigate and trade in the Ports, Places, Towns, &c. possess'd by the other in the *West Indies*. There is no greater Restriction with Respect to the Navigation and Commerce of the Subjects of the States in those Parts, than there is with Respect to those of *Spain*; the Navigation in the *American Seas* is open and free equally to both; the Prohibition of one navigating and trading in the Possessions of the other is mutual, without any Distinction, or Reservation of a greater Pre-eminence in those Seas, or of any Liberty given to one preferably to the other to stop and visit Vessels that sail there.

This is agreeable to the Treaties which subsist between *Spain* and the States General; and to their Demands, and to all the Resolutions they have taken with Respect to the Complaints made of the *Spanish* Depredations.

The State of Navigation and Commerce between *Great Britain* and *Spain* is upon the same Foot: By the 8th Article of the Treaty between the Crowns of *Spain* and *Great Britain*, made the 1st of May, 1667, it is agreed, with Respect to the two *Indies*, that the Crown of *Spain* shall grant to the King of *Great Britain* all that has been granted to the States General of the United Provinces, and to their Subjects, in the Treaty of *Munster* in 1648.

But, as after the making the Treaty of 1667, which regarded properly the Possessions and Commerce in *Europe*, the Depredations in the *West Indies* were still continued; a particular Treaty for *America* only, was made between *Great Britain* and
Spain

Spain at Madrid, the 18th of July, 1670. This Treaty has the following remarkable Title :

Traſtatus et Amica Compoſitio inter Carolum Secundum Regem Magnæ Britanniæ, et Carolum Secundum Regem Hiſpaniæ, ad bonam Correſpondentiam in America interruptam rurfus inſtaurandam, et Depredationes Injuriæſque omnes coercendas.

In Conſequence of this Treaty, the 2d Article eſtabliſhes a general Peace and Friendſhip, as well in America, as in other Parts of the World ; ſo that the two Kings engage to favour the Interests of each other ; *omnique ex parte remotis illis Regionibus, (uti in propinquioribus) fida Vicinitas et ſecura Pacis atque Amicitie cultura creſcat in dies et augeatur.*

By the 3d Article, all Hoſtilities are to ceaſe, &c. and each Party is to abſtain *ab omni Direptione, Depredatione, Leſione, Injuriis*que, as well by Land as Sea.

By the 8th Article, The Subjects and Merchants of both Sides ſhall abſtain from trading, or entring into the Ports, fortified Places, Magazines, Caſtles, and all other Places poſſeſs'd by the one or the other in the *Weſt Indies*, &c.

By the 10th Article it is agreed, That if the Subjects of either Side by Tempeſts, Pyrates, *aut alio quovis incommodo*, are forc'd into the Ports or Rivers of the one or the other in America, either with Men of War or Merchant Ships, they ſhall be amicably received and proteſted, and they ſhall be permitted to take in Refreshments, reſit their Veſſels, and depart when and where they pleaſe, without any Hindrance or Moleſtation.

By the 12th Article, When the Veſſels of one of the Parties are forc'd to enter the Ports of the other, if they be three or four in Number, ſo as to give Jealouſy thereby, they ſhall give immediate Notice to the Governor of the Reaſon why they come in thither, and ſhall continue there no longer than the Governor ſhall think proper, or ſhall be neceſſary
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to victual and refit the said Vessels ; taking Care at the same Time, not to lade or unlade, or trade there, contrary to the Tenor of the said Treaty.

By the 15th Article, This Treaty is not to derogate from any Pre-eminence, Right, or Dominion whatever of each Party in the Seas, Straights, &c. of *America*, but they shall retain them entirely, as they shall of Right belong to them ; upon Condition nevertheless, that the Freedom of Navigation shall not be interrupted upon any Pretence, provided Nothing be done against the true Sense of these Articles.

That is to say, That the Reservation of all Pre-eminence or Dominion which may of Right belong to either Party in the Seas, Straights, &c. of *America*, shall not be made use of for a Pretence to interrupt the Freedom of Navigation. The Words are, *Intellectum autem semper esto, libertatem navigandi neutiquam interrumpi debere.* A free Navigation is established here, as a fundamental Rule, but this Liberty does not extend so far as to permit either of the Parties to trade or enter into the Ports or Havens of the other.

It is consequently very plain by the express Words, as well as by the Spirit and Tenor of the whole Treaty, that it tended to preserve Peace, to prevent Depredations and Injuries in *America*, and to settle the Freedom of Navigation which had been interrupted in those Seas ; That each Party may, in Case of Necessity, enter the Ports of the other, to victual and refit ; that no Pre-eminence or Dominion is granted to one more than to the other ; and lastly, That there is no other Restriction upon the Navigation, but that neither Party shall be permitted to trade or navigate in the Ports and Places belonging to the other ; and that this Restriction is mutual : And therefore all Attempts on either Side to stop or visit Vessels navigating in those Seas, upon any Pretence whatever, except they trade or enter into the Ports or Havens of the other, is an Interruption of the Freedom

dom of Navigation, stipulated by this Treaty, and by Consequence is a Violation of the Treaty itself.

It was upon this Foot, that Peace, Navigation, and Commerce, were establish'd in the *West Indies* between *Great Britain* and *Spain* during the Reign of *Charles* the Second of *Spain* ; it was upon this Foot they were constantly maintain'd and observ'd without any Injury, Depredation, or Complaint on either Side for more than thirty Years ; that is to say, as long as that Prince liv'd ; and it is upon this Foot they ought to subsist by the Treaty of *Utrecht*, in 1713 ; by which that of 1670 is ratified and confirm'd : And although it be agreed by the 8th Article of that Treaty, that the Fundamental Laws of *Spain*, which forbad the Entry and Commerce of the *Spanish West Indies* to Foreigners, and reserved the one and the other solely to the *Spaniards*, ought to be observed, and if any one attempts to violate them, it is at his Peril ; yet the fundamental Laws of *Spain* can't authorize or justify the stopping and visiting of Vessels navigating in the *American Seas*, if they do not enter and trade in the Ports and Places belonging to the Crown of *Spain* ; for this would be contrary to the Law of Nations, and to the Treaties subsisting between the two Crowns. And therefore what is quoted by this Reasoner from the 8th Article of the Treaty of *Utrecht* in 1713, between *Great Britain* and *Spain*, and from the 31st Article of the Treaty made there between *Spain* and the States General in 1714, signifies just Nothing ; and our excellent Reasoner shews plainly, he does not understand the true Sense of those Articles, or what was the Thing intended by them. For if that had been well considered, he would have found, that the principal Reason why *Great Britain* and the States took Care to engage *Spain* in the strongest Manner, to prohibit all foreign Nations to enter and trade in their *West Indies*, proceeded from the Jealousy they had, that *Spain* would grant Liberty or Permission

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to a certain Power, to trade in their Ports in those *Indies*, while the *English* and *Dutch* were excluded. But no body in his Wits can imagine, that *Great Britain* and the States had an Intention by insisting on such a Prohibition with Respect to Foreign Nations, that their Subjects should be restrained, and their Ships be stopt and visited in any Part of the *American* Seas, so long as they did not enter or trade in the Places belonging to *Spain*. The Exception of a particular Case fortifies and confirms the general Rule, with Respect to all others where this Case does not exist ; and therefore when it is said, that the *English* and *Dutch* are restrained from entring or trading in the Ports belonging to *Spain* in *America*, as the *Spaniards* are in like Manner restrained from entring or trading in the Ports and Places belonging to *Great Britain* or *Holland*, it would by no Means be just to conclude from thence, as this Reasoner would have us, that the *English* and *Dutch* have no other Freedom of Navigation but that of going to, and returning from their own Colonies : But the true Conclusion is, that the *English* and *Dutch* may freely navigate in all Parts of the *American* Seas, provided they do not navigate or trade in the Ports belonging to *Spain* ; as the *Spaniards* have the like Liberty, and Nothing more, to navigate in those Seas, provided they do not navigate in the Ports and Places belonging to *Great Britain* and the States ; and *Spain* has no more Right to prescribe the Route, which the Subjects of *Great Britain* shall keep in going to their Colonies, or in coming from them, than *Great Britain* has to prescribe to the Subjects of *Spain* in going to, or coming from their Colonies. And in Fact, if one considers the Situation of the Colonies of one of these Nations with Regard to the Situation of those of the other, and how it is sometimes unavoidable and necessary to navigate more or less near to the Coasts of the one, or the other, not only in going from *Europe* to their respective Colonies

Colonies, but also in trading from one of their own Colonies to another in those Parts ; and if one considers farther, the Inconstancy of the Winds, and Storms, it is as impossible to prescribe such a Route, as it would be to follow it. And consequently a Claim on the Part of *Spain*, to a Right to stop and visit all Vessels which do not keep to such a pretended Route, although they go not into, nor trade in the *Spanish* Ports, is a Proceeding altogether unjust, and arbitrary, and which would subject the Freedom of Navigation, and their lawful Commerce to the good Pleasure and Discretion of this Crown, or of those who act by its Commission ; and instead of preserving the Peace, and preventing Depredations according to the Title and Tenor of the *American* Treaty of 1670, this very Proceeding would furnish a continual Source of Injuries and Depredations.

Suppose all Nations (as many do) who have Colonies in *America*, should agree, that their respective Subjects should not navigate or trade in the Ports or Places which belong to the one or the other of them ; and suppose, Each, to prevent illicit Commerce, should have *Garde de Costas*, with Injunctions to them, to stop and visit the Vessels of all other Nations they shall find in those Seas, to search, and judge, whether or no they have acted, or have a Design to act, against this Agreement, what would be the Consequence of such a Practice ? Would it be possible for each Nation to pursue their lawful Commerce from and to their own Colonies, or from one Colony to another ? Would not the Navigation of the *American Seas* furnish a perpetual Scene of Hostility and Confusion ? And would it not give Room for Quarrels and Wars without End, between the *European* Powers who have Possessions there ?

But I hope I shall be excused for dwelling so long upon a Point so clear, and so plain as this.

There remains still one remarkable Passage, writ by way of Recrimination ; a Figure of Rhetorick,

made use of to supply the Want of Argument and Reason. This is introduced by Way of Astonishment, that the *English* should pretend to demand a free Navigation in the *American Seas* ; and thus it is express'd.

“ There is all the Reason in the World to be surprized at this Demand, since the *English* imagine they have a Right to claim and assume to themselves, even in the Midst of Europe, the supreme Dominion of the Ocean, tho' it be common to all the Sovereigns whose States are washed by it. And founding themselves upon the Name they give it, of the *British Sea*, insist, that not only the Ships of all Nations should in the said Sea strike to them ; but one has seen them attempt to claim to themselves a Right of giving Leave to fish there, and to be paid for such Leave.”

Here is so much Pomp and Academick Eloquence, so far above the rest of this Piece, that I should readily suspect, this is not our Reasoner's own Production, but that one of his Friends of a superior Genius has drawn it for him by Procuration. *Even in the Midst of Europe, the supreme Dominion of the Ocean, common to all the Sovereigns whose States are wash'd by it.* This is truly grand and lofty, and to take it right, has but one small Fault, that it proves Nothing, as I shall shew presently.

The *English* expect, that the Vessels of other Nations meeting theirs in the Channel should strike to them ; to which some have actually consented by Treaty ; They have also made Regulations with respect to Fishing on their Coasts, to prevent Disputes with their Neighbours ; and these Regulations have been admitted and approved. Is there any Similitude between this and what our Reasoner says, that *Spain* may pretend to so great a Pre-eminence in the *American Seas*, as to stop, visit, and search all Vessels that navigate there, and even plunder, take, and condemn them upon very trifling Pretences, which

which he covers under the Name of *just Precautions against contraband and illicit Trade*, and thereby render all lawful Commerce impracticable, or at least subject to the arbitrary Will of *Spain* ? Are these Cases at all parallel ? Just as much, as if one should suppose, that if the *English* should pretend, that all who pass by their Door, should pull off their Hats to them, the *Spaniards* may therefore pretend to stop, visit, and search all that pass along the Streets, and even imprison them, to discover, if they have not robbed them, or at least had a Design to do it. According to our Reasoner, these two Cases have a perfect Conformity and are absolutely parallel. So that this remarkable Paragraph, when it is divested of its pompous Expressions, like the Jackdaw stript of the Peacock's Feathers, will make but a poor Figure.

At last fearing that neither his Reasons, nor Reproaches will do him any Service, our Reasoner takes the Cudgel in Hand, and hopes, that at least by the powerful Argument of *Menaces*, he shall carry his Cause, and that the *English* and *Dutch* will be intimidated to that Degree, as not to dare to use Reprizals for the Depredations they have suffered for so many Years from the *Spaniards*. "*England*, says he, had little Reason to order its Plenipotentiaries to break off the Conferences, as they did by their Memorial of the 9th of *July*. It had as little for making those great Armaments, and for pressing her Neighbours to arm in her Behalf, or for soliciting them to be ready against all Events ; because *their* Neighbours, when they see them make Preparations out of Season, and without any Necessity, will regulate themselves by that Example, and take the like Precautions on their Side also, by which the publick Tranquility will infallibly suffer. In this Case, the bad Consequences must be imputed to
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“ those who persuade, and to those who suffer themselves to be persuaded.”

Let us **Examine** this a little.

It appears plainly by the Convention, that the 95000 *l.* in Satisfaction for past Damages, ought to have been paid in four Months after the Ratification, and that all Causes of Complaint, with regard to Navigation and Commerce in *America*, were to be adjusted in the Space of eight Months: The first Term expires, and the 95000 *l.* is absolutely refused to be paid: In the mean While the Conferences are continued, and the *Spanish* Plenipotentiaries declare to those of *Great Britain* the 1st of *July*, as I have been informed, that *Spain* is obliged to insist on the Stopping, Visiting, and Searching of all Vessels, which navigate in the *American* Seas, as a Right depending on, and inseparable from their Pre-eminences and Dominions in those Seas. Could the Conferences be continued after such a Declaration? The Causes of Complaint that were to be removed, were the Stopping, Visiting, and Searching of Ships; *Spain* peremptorily insists on its having this pretended Right, and that it will execute it. What remain'd to be done after an absolute Refusal to execute the Convention with regard to the Reparation of past Injuries, and so absolute a Claim to make use of the same Means to practice anew the same Injuries; what remain'd for *England* to do, but to arm, and order Reprials, the only Remedy it had in its Power to preserve its lawful Commerce from Violences, and from a Dependence on *Spain*.

But this Reasoner, I suppose, has learnt, that the *Dutch* have suffered the same Injuries, and the same Treatment, and have not received any Satisfaction for past Damages, nor have any Hopes of a free and safe Navigation for their lawful Commerce for the Future, notwithstanding the frequent Representations they have made for so many Years; and

and altho' it be now about ten Months since their Minister at *Madrid* delivered his last Memorial, without having had hitherto any other Answer but Promises from Time to Time, without the least Hope, that when they have given one, their lawful Commerce shall be no more interrupted in *America*. And as the States consequently have the same Causes of Complaint that *England* has, he imagines the *English* will press the *Dutch* to arm in like Manner, and be in Readiness against all Events; but he advises them kindly to take care what they do, because the Neighbours of the States, seeing them make unseasonable Preparations, and without any Necessity for it, may regulate themselves by their Example, and the publick Tranquility be thereby disturbed. Now if this Reasoner had consulted the *Spanish* Ambassadour, he would have told him, that these Neighbours know very well that the *Dutch* have good Reason to arm against *Spain*, that their Neighbours have been so good as to solicit a Satisfaction for them, but always in vain; that these Neighbours are fully convinced, that the *Dutch* in arming can have no other Object in View but the Justice which *Spain* has absolutely refused to them by amicable Means; and that for that Reason they shall not be at all alarmed at their Armament; and who can imagine, the Tranquility of *Europe* must necessarily be interrupted in other Respects, because the *English* and *Dutch* will not suffer *Spain* to commit Depredations upon their Subjects, while carrying on their lawful Commerce in *America*, under a chimerical Pretence, that *Spain* has a particular Pre-eminence in those Seas. The Neighbours of *England* and *Holland*, far from taking Umbrage at such a Proceeding, ought to acknowledge the Justice of their Cause, as being a Cause common to the *English*, *French*, *Dutch* and *Danes*, and to all those who have Colonies or Possessions in the *West Indies*.

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After having entirely destroyed the false Ideas, which the artful Turns of our Author might perhaps give to some few, who are not enough acquainted with the Differences which subsist between *England* and *Spain*; I shall patiently wait the Unraveling of this great Affair, and shall be glad to see what shall be published upon it by one Side and the other, to come at the true Reasons, which have induced *Spain* to break with *England*, to whom she has so many Obligations, and particularly that of having contributed to the establishing a Part of that Royal Family in *Italy*.

Convention

Convention signed at the Pardo, Jan.
14, 1739.

WHereas Differences have arisen, of late Years, between the two Crowns of *Great Britain* and *Spain*, on account of the Visiting, Searching, and Taking of Vessels, the Seizing of Effects, the Regulating of Limits, and other Grievances alleged on each Side, as well in the *West Indies*, as elsewhere; which Differences are so serious, and of such a Nature; that if Care be not taken to put an entire Stop to them for the present, and to prevent them for the future, they might occasion an open Rupture between the said Crowns: For this Reason His Majesty the King of *Great Britain*, and His Majesty the King of *Spain*, having nothing so much at Heart as to preserve and corroborate the good Correspondence which has so happily subsisted, have thought proper to grant their Full Powers, viz. his *Britannick* Majesty to *Benjamin Keene*, Esq; his Minister Plenipotentiary to his Catholick Majesty, and his Catholick Majesty to *Don Sebastian de la Quadra*, Knight of the Order of *St. James*, Councillor of State, and First Secretary of State and of the Dispatches; who after previously producing their Full Powers, having conferred together, have agreed upon the following Articles.

Article I.

Whereas the ancient Friendship, so desirable and so necessary for the reciprocal Interest of both Nations, and particularly with regard to their Commerce, cannot be established upon a lasting Foundation, unless Care be taken, not only to adjust and regulate the Pretensions for reciprocal Reparation of the Damages already sustained, but above all to find

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out Means to prevent the like Causes of Complaint for the future, and to remove absolutely, and for ever, every thing which might give Occasion thereto ; It is agreed to labour immediately, with all imaginable Application and Diligence, to attain so desirable an End ; and for that Purpose there shall be named on the Part of their *Britannick* and *Catholic* Majesties respectively, immediately after the signing of the present Convention, two Ministers Plenipotentiaries, who shall meet at *Madrid* within the Space of six Weeks, to be reckoned from the Day of the Exchange of the Ratifications, there to confer, and finally regulate the respective Pretensions of the two Crowns, as well with relation to the Trade and Navigation in *America* and *Europe*, and to the Limits of *Florida* and of *Carolina*, as concerning other Points, which remain likewise to be adjusted ; the whole according to the Treaties of the Years 1667, 1670, 1713, 1715, 1721, 1728, and 1729, including That of the *Assiento* of Negroes, and the Convention of 1716 ; and it is also agreed, that the Plenipotentiaries, so named, shall begin their Conferences six Weeks after the Exchange of the Ratifications, and shall finish them within the Space of eight Months.

Article II.

The Regulation of the Limits of *Florida* and of *Carolina*, which according to what has been lately agreed, was to be decided by Commissaries on each side, shall likewise be committed to the said Plenipotentiaries, to procure a more solid and effectual Agreement ; and during the Time that the Discussion of that Affair shall last, Things shall remain in the aforesaid Territories of *Florida* and of *Carolina* in the Situation they are in at present, without increasing the Fortifications there, or taking any new Posts ; And for this Purpose, his *Britannick* Majesty

jeſty and his *Catholick* Maſteſty ſhall cauſe the neceſſary Orders to be diſpatched immediately after the ſigning of this Convention.

Article III.

After having duly conſidered the Demands and Pretenſions of the two Crowns, and of their reſpective Subjects, for Reparation of the Damages ſuſtained on each Side, and all Circumſtances which relate to this important Affair ; It is agreed, that his *Catholick* Maſteſty ſhall cauſe to be paid to his *Britannick* Maſteſty the Sum of Ninety five thouſand Pounds Sterling for a Balance, which has been admitted as due to the Crown and the Subjects of *Great Britain*, after Deduction made of the Demands of the Crown and Subjects of *Spain* ; to the End that the abovementioned Sum, together with the Amount of what has been acknowledged on the Part of *Great Britain* to be due to *Spain* on her Demands, may be employed by his *Britannick* Maſteſty for the Satisfaction, Diſcharge, and Payment of the Demands of his Subjects upon the Crown of *Spain* ; It being underſtood nevertheless, That it ſhall not be pretended, that this reciprocal Diſcharge extends, or relates to the Accounts and Differences, which ſubſiſt, or are to be ſettled between the Crown of *Spain* and the Company of the *Aſſiento* of Negros, nor to any particular or private Contracts that may ſubſiſt between either of the two Crowns, or their Miniſters with the Subjects of the other, or between the Subjects and Subjects of each Nation reſpectively ; with Exception however of all Pretenſions of this Claſs mentioned in the Plan preſented at *Seville* by the Commiſſaries of *Great Britain*, and included in the Account lately made out at *London*, of Damages ſuſtained by the Subjects of the ſaid Crown, and eſpecially the Three Particulars inſerted in the ſaid Plan, and making but one Article in the Account, amounting to

One hundred nineteen thousand five hundred twelve Piaſters, three Reals and three Quartils of Plate ; and the Subjects on each Side ſhall be entitled, and ſhall have Liberty to have Recourſe to the Laws, or to take other proper Meaſures, for cauſing the above-ſaid Engagements to be fulfilled, in the ſame Manner as if this Convention did not exiſt.

Article IV.

The Value of the Ship called the *Woolball*, which was taken and carried to the Port of *Campechy* in the Year 1732, the *Loyal Charles*, the *Diſpatch*, the *George* and the *Prince William*, which were carried to the *Havanna* in the Year 1737, and the *St. James* to *Porto Rico* in the ſame Year, having been included in the Valuation that has been made of the Demands of the Subjects of *Great Britain*, as alſo ſeveral others that were taken before ; if it happens, that in conſequence of the Orders that have been diſpatched by the Court of *Spain* for the Reſtitution of them, Part, or the Whole of them have been reſtored, the Sums ſo received ſhall be deducted from the 95000 *l.* Sterling which is to be paid by the Court of *Spain* according to what is above ſtipulated : It being however underſtood, that the Payment of the 95000 *l.* Sterling ſhall not be, for that Reaſon, in any Manner delayed ; Saving that what may have been previously received ſhall be reſtored.

Article V.

The preſent Convention ſhall be approved and ratified by his *Britannick* Maſteſty and by his *Catholick* Maſteſty ; and the Ratifications thereof ſhall be delivered and exchanged at *London* within the Space of ſix Weeks, or ſooner, if it can be done, to be reckoned from the Day of the ſigning.

In Witneſs whereof, We the underwritten Miniſters

sters Plenipotentiaries of his *Britannick* Majesty and of his *Catholick* Majesty, by Virtue of our Full Powers have signed the present Convention, and caused the Seal of our Arms to be affixed thereto. Done at the *Pardo* the 14th Day of *January* 1739.

B. KEENE.
(L. S.)

SEBASTIAN de la QUADRA.
(L. S.)

First Separate Article.

WHEREAS it has been agreed by the first Article of the Convention, signed this Day, between the Ministers Plenipotentiaries of *Great Britain* and *Spain*, that there shall be named on the Part of their *Britannick* and *Catholick* Majesties respectively, immediately after the Signing the abovesaid Convention, two Ministers Plenipotentiaries, who shall meet at *Madrid* within the Space of six Weeks, to be reckoned from the Day of the Exchange of the Ratifications ; their said Majesties, to the End that no Time may be lost in removing, by a solemn Treaty, which is to be concluded for that Purpose, all Cause of Complaint for the Future, and in establishing thereby, a perfect good Understanding, and a lasting Friendship, between the two Crowns, have named, and do by these Presents name, viz. His *Britannick* Majesty, *Benjamin Keene*, Esq; his said Majesty's Minister Plenipotentiary to his *Catholick* Majesty, and *Abraham Castres*, Esq; his said *Britannick* Majesty's Consul General at the Court of his *Catholick* Majesty, his Plenipotentiaries for that Purpose ; and his *Catholick* Majesty, *Don Joseph de la Quintana*, his Councillor in the Supreme Council of the *Indies*, and *Don Stephen Joseph de Abaria*, Knight of the Order of *Calatrava*, Counsellor in the same Council, and Superintendant of the Chamber of Accounts, who shall be immediately instructed to begin the Conferences : And whereas it has been
agreed

agreed by the 3d Article of the Convention signed this Day, that the Sum of Ninety five thousand Pounds *Sterling*, is due on the Part of *Spain*, as a Balance to the Crown and Subjects of *Great Britain*, after Deduction made of the Demands of the Crown and Subjects of *Spain*; his Catholick Majesty shall cause to be paid at *London*, within the Term of four Months, to be reckoned from the Day of the Exchange of the Ratifications, or sooner if it be possible, in Money, the abovementioned Sum of Ninety five thousand Pounds *Sterling*, to such Persons as shall be authorized, on the Part of his *Britannick* Majesty to receive it.

This Separate Article shall have the same Force as if it was inserted Word for Word in the Convention signed this Day; it shall be ratified in the same Manner, and the Ratifications thereof shall be exchanged at the same Time as those of the said Convention.

In Witness whereof, We the underwritten Ministers, Plenipotentiaries of his *Britannick* Majesty, and of his Catholick Majesty, by Virtue of our full Powers, have signed this Separate Article, and have caused the Seals of our Arms to be affixed thereto. Done at the *Pardo*, the 14th Day of *January*, 1739.

B. KEENE.
(L. S.)

SEBASTIAN de la QUADRA.
(L. S.)

Second Separate Article.

WHereas the underwritten Ministers Plenipotentiaries of their *Britannick* and *Catholick* Majesties have this Day signed, by Virtue of Full Powers from the Kings their Masters for that Purpose,

pose, a Convention for settling and adjusting all the Demands, on each Side of the Crowns of *Great Britain* and *Spain*, on Account of Seizures made, Ships taken, &c. and for the Payment of a Balance that is thereby due to the Crown of *Great Britain*; It is declared, that the Ship called the *Succefs*, which was taken on the 14th Day of *April* 1738, as she was coming out from the Island of *Antigua* by a *Spanish* Guarda Costa, and carried to *Porto Rico*, is not comprehended in the aforesaid Convention; and his Catholick Majesty promises, that the said Ship and its Cargo shall be forthwith restored, or the just Value thereof, to the lawful Owners; provided that, previous to the Restitution of the said Ship the *Succefs*, the Person or Persons interested therein do give Security at *London* to the Satisfaction of *Don Thomas Geraldino*, his Catholick Majesty's Minister Plenipotentiary, to abide by what shall be decided thereupon by the Ministers Plenipotentiaries of their said Majesties, that have been named for finally settling, according to the Treaties, the Disputes which remain to be adjusted between the two Crowns; and his Catholick Majesty agrees, as far as shall depend upon him, that the abovementioned Ship the *Succefs* shall be referred to the Examination and Decision of the Plenipotentiaries; his *Britannick* Majesty promises likewise to refer, as far as shall depend upon him, to the Decision of the Plenipotentiaries, the Brigantine *S^{ta}. Theresa*, seized in the Port of *Dublin* in *Ireland*, in the Year 1735. And the said underwritten Ministers Plenipotentiaries declare by these Presents, that the 3d Article of the Convention signed this Day, does not extend, nor shall be construed to extend to any Ships or Effects that may have been taken or seized since the 10th Day of *December* 1737, or may be hereafter taken or seized; in which Cases Justice shall be done according to the Treaties, as if the aforesaid Convention had not been made; it being however understood, that this relates

lates only to the Indemnification and Satisfaction to be made for the Effects seized, or Prizes taken, but that the Decision of the Cases, which may happen, in order to remove all Pretext for Dispute, is to be referred to the Plenipotentiaries, to be determined by them according to the Treaties.

This Separate Article shall have the same Force as if it was inserted Word for Word in the Convention signed this Day : It shall be ratified in the same Manner, and the Ratifications thereof shall be exchanged at the same Time as those of the said Convention.

In Witness whereof, We the underwritten Ministers Plenipotentiaries of his *Britannick* Majesty, and of his *Catholick* Majesty, by Virtue of our Full Powers, have signed the present Separate Article, and have caused the Seals of our Arms to be affixed thereto. Done at the *Pardo* *January* the 14th, 1739.

B. KEENE.
(L. S.)

SEBASTIAN de la QUADRA.
(L. S.)

F I N I S.

